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SUBJECT: IPR ROUNDTABLE: "WORKING WITH RUSSIAN LAW ENFORCEMENT"

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¶11. (U) Summary: On December 11, the Embassy and the American Chamber of Commerce (AmCham) co-hosted an IPR roundtable, "Working with Russian Law Enforcement on IPR Cases". This was the first joint IPR Roundtable with AmCham and a deliverable of the U.S.-Russia IPR Working Group. The Ministry of Economic Development noted that Duma legislation to make the Russian Civil Code compliant with the WTO TRIPS agreement was an important step towards WTO accession. Representatives from the Ministry of Interior's (MVD) Economic Crimes and Computer Crimes Units described procedures for investigating IPR cases and explained to AmCham members and rights holders how to more effectively cooperate with Russian law enforcement in IPR investigations. U.S. industry representatives presented case studies on best practices for working with the MVD. Approximately 40 AmCham member companies participated. END SUMMARY.

¶12. (U) On December 11, jointly with the American Chamber of Commerce in Moscow, the Embassy provided a forum for U.S. rights holders to learn about the MVD's work on IPR cases, and hear best practices for working with the MVD from other AmCham members. The event, "Working With Russian Law Enforcement on IPR Cases," held at AmCham's offices, marked the first joint Embassy-AmCham IPR Roundtable. Charge d'Affaires Eric Rubin opened the Roundtable and noted that the vigorous protection of intellectual property rights would help realize President Medvedev's vision of a diversified and innovative economy. Approximately 40 Amcham member companies participated. The Roundtable was moderated by Post's PTO Attaché; Emboffs from the Economic and Law Enforcement Sections also participated.

¶13. (U) The idea to hold the Roundtable came out of the most recent meeting of the U.S.-Russia IPR Working Group in Washington, D.C in March 2008. Vladimir Tsvetkov, representing the Russian law enforcement Ministry of Internal Affairs (MVD) suggested the need to educate U.S. rights holders in Russia on MVD procedures for investigating IPR crimes and to explain how better to work with the MVD.

IPR and WTO Accession

¶14. (U) Following the Charge's remarks, a representative from the Ministry of Economic Development addressed progress on IPR protection and enforcement in the context of Russia's WTO accession, highlighting an amendment before the Duma to make Part IV of the

Civil Code compliant with the WTO TRIPs agreement. An IPR lawyer from Baker & McKenzie set the stage for the Roundtable by providing an overview of IPR challenges rights holders face in Russia, focusing concern on a pending decision in the Russian courts that will determine how imports of "grey" and parallel goods will be treated by the Russian Customs Service.

Three "Pillars" in IPR Enforcement Procedure

15. (U) The MVD has the main oversight and enforcement responsibility for IPR Crimes that are categorized as "economic crimes" under Russia's Criminal Code. Vladimir Tsvetkov, Head of the Economic Crimes Unit of the MVD, outlined what he described as the "3 pillars of procedure" for IPR cases. First, a complaint must be received from the rights holder. This complaint will initiate an investigation. Provided that a potential infringement is discovered, the next step is to calculate the damages to the right holder. Finally, the MVD must complete a forensic examination of the seized goods. Tsvetkov described the process as "lengthy" often taking several months. He complained that rights holders lack "follow through," and are often unwilling to "do what it takes" with the MVD to find the source or the manufacturer of counterfeit goods.

16. (SBU) The MVD has the reputation among many rights holders as being secretive and difficult to reach. However, after patiently answering several procedural and technical questions, Tsvetkov surprised participants by providing his cell phone number, and encouraged AmCham members to contact him directly about potential IPR violations. Only one comment seemed to ruffle Tsvetkov. One participant suggested that after a raid in Tula earlier this year,

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the local MVD immediately returned the seized optical disc production equipment to the pirates. Tsvetkov challenged the company representative to bring him some proof before making further accusations.

Department K Reports on Internet Piracy

17. (U) In addition to the enforcement activities of the Economic Crimes Unit, the MVD has a separate unit, "Department K," which is responsible for operational investigation of computer crimes. Department K's Anton Kuznetsov discussed efforts to fight internet piracy. Kuznetsov reported that the MVD investigated 1500 cases of internet piracy in 2007, and 1150 cases though the first nine months of 2008. So far in 2008, 800 cases have been completed and forwarded to the courts.

18. (U) Kuznetsov commented that although they are targeting illegal internet sites that make copyrighted material available for mail order or download, they are limited in what they can do because many illegal websites are registered in countries outside of Russia. He offered as an example an illegal website registered in the U.S. that sells Autodesk and Microsoft programs internationally, including to Russian consumers. Kuznetsov said that Department K launched an end-user notification campaign in 2008 to target businesses that use unlicensed software. So far, 2500 notifications have been sent. Kuznetsov called for more public awareness and education, and said that judges in particular need more training, as evidenced from cases when judges have let people off who claimed they "accidentally" downloaded a pirated program from the internet.

Case Studies on Working with the MVD

19. (SBU) Representatives from Microsoft and the Baltic Law firm (representing the Business Software Alliance) provided case studies of best practices for working with Russian law enforcement on IPR. With 30 IP lawyers in 27 regions across Russia, Microsoft works closely with both federal and regional law enforcement on IPR

protection. In 2007, Microsoft brought over 1500 cases to the MVD for investigation. Microsoft also conducts regional training programs and has trained over 1200 Russian police officers and investigators. Baltic Law also backed-up the MVD's argument that enforcement of IPR only works when rights holders take initiative, by citing an example of a case in which Baltic Law reported to the local MVD in Novosibirisk that a Russian company was using illegal software. The investigation led to a court decision in Baltic Law's favor and damages paid to the BSA member.

Comment

¶10. (SBU) Rights holders told us that they found the Roundtable useful and were please with the MVD's offer to open direct lines of communication. Given the success of this roundtable, the embassy plans to meet with AmCham management to discuss themes and topics for a series of future IPR Roundtables.